IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2747 of 1996

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GOPICHAND BHAGATBHAI DATANIA

Versus

LIC OF INDIA

Appearance:

1. Special Civil Application No. 2747 of 1996

MR CN TRIVEDI for Petitioner No. 1-9

MR SB VAKIL, SR. ADV. WITH MR AK CLERK AND MR HM BHAGAT for Respondent No. 1-2

MR GT PARIKH for Respondent No. 3

MR JM MALKAN, Central Govt. Sr. Standing counsel for respondent No.4 & 5.

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 04/11/2004

ORAL JUDGEMENT

Learned advocate for the petitioners seeks permission to join the Assistant Labour Commissioner (Central), Meghaninagar, Ahmedabad as party respondent No.4 and the Union of India, Ministry of Labour, Shram Shakti Bhavan, Rafi Marg, New Delhi, as party respondent No.5. Permission is granted. Learned Central Government Senior Standing Counsel Shri Malkan waives service of notice of rule on behalf of respondent Nos.4 & 5.

2. In the present petition, the petitioners are seeking the relief of being absorbed on regular employment by the respondent No.2 and for being paid salary on par with the regular employees of the Corporation. The petitioners are claiming to be the canteen workers in the canteen run in the premises of the respondent No.2. On the basis of having worked for a long time and also on the premise of the canteen being run by the Life Insurance Corporation of India, though for some period through the contractor, the above mentioned reliefs are claimed by the petitioners.

3. On behalf of the respondent Nos.1 & 2, it is strongly urged that the petition involves large number of disputed questions of fact and the claim of the petitioners for being absorbed on regular basis cannot be considered and entertained by this Court in the face of number of disputed questions involved in the present petition. The counsel for the respondent Nos.1 & 2 submits that the only proper forum to decide these questions would be the Labour Court/Industrial Tribunal under the Industrial Disputes Act.

4. Learned advocate for the petitioners submits that even if the petitioners are to be relegated to the remedy under the Industrial Disputes Act, the interim protection granted to the petitioners during the pendency of the petition may be continued for a reasonable period of time to enable the petitioners to approach the appropriate forum for seeking interim relief till the final disposal of the proceedings.

5. Considering the submissions made and in view of the fact that there are large number of disputed questions of facts which cannot be properly resolved in the present petition in exercise of powers of writ jurisdiction under Article 226 of the Constitution of India, it is appropriate that the petitioners should first approach the forum under the Industrial Disputes Act for agitating their grievances and the same should be at first instance be decided by the competent forum under

the Industrial Disputes Act.

6. For the above purpose, the petitioners herein shall approach the respondent No.4 raising their demands within a period of three weeks from today. The respondent No.4 thereupon shall hold conciliation proceedings and in case of failure, submit his report to the respondent No.5 as expeditiously as possible and in any case within a period of four months from the date of the petitioners' approaching the said authority. The respondent No.5 upon receipt of the appropriate report by the respondent No.4 shall consider whether the industrial dispute raised by the petitioners is required to be referred to the appropriate forum under the Industrial Disputes Act. In case the respondent No.5 decides to make a reference to the Labour Court/Industrial Tribunal, it is expected that considering the nature of dispute and the fact that the same was pending before the High Court for a fairly long time, the same shall be given priority consideration and attempt would be made to dispose of the same as expeditiously as possible. Until such time the respondent No.5 herein decides to make a reference before the appropriate forum and in case the decision is to make a reference, for a period of three months after the reference is made to the appropriate Labour Court/Industrial Tribunal, as the case may be, the interim relief granted by this Court by the order dated 15th April 1996 and which is operating during the pendency of the petition shall continue, to enable the petitioners to approach the appropriate forum with an application for interim relief. It is clarified that the Labour Court/Industrial Tribunal shall consider and decide the application of the petitioners for interim relief without being in any way influenced by the extension of interim relief granted by this Court earlier.

7. With the above directions, the petition stands disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)
(vjn)